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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation And Petition to  
Revoke Probation Against:

TATIA H. DEPASS [a.k.a. Gardner], R.C.P.  
613 W Provential Drive #B  
Anaheim, CA 92805

Respiratory Care Practitioner License No. 19312

Respondent.

Case No. R-2085 / D1 2006 560

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

Complainant alleges:

**PARTIES**

1. Stephanie Nunez (Complainant) brings this Accusation and Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about March 7, 1997, the Respiratory Care Board issued Respiratory Care Practitioner License No. 19312 to TATIA H. DePASS, R.C.P. (Respondent). The Respiratory Care Practitioner License was in effect at all times relevant to the charges brought herein and will expire on March 31, 2010, unless renewed.

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3. In a disciplinary action entitled "In the Matter of Accusation Against Tatia H. Gardner, R.C.P.," Case No. R-2085, the Respiratory Care Board, issued a decision effective September 7, 2007, in which Respondent's Respiratory Care Practitioner License was revoked. However, the revocation was stayed and Respondent's license was placed on probation for a period of two (2) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

## JURISDICTION

4. This Accusation and Petition to Revoke Probation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

6. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

7. Section 3754 of the Code states: “The board may deny an application for, or issue with terms and conditions, or suspend or revoke, or impose probationary conditions upon, a license in any decision made after a hearing, as provided in Section 3753.”

8. This Accusation and Petition to Revoke Probation is also brought before the Board under the authority of the Board's Decision in Case No. R-2085, which provides in pertinent part as follows:

“IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 19312 issued to Respondent TATIA H. GARDNER is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the following terms and conditions.

“ ”

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1           “2.    OBEY ALL LAWS   Respondent shall obey all laws, whether  
2           federal, state, or local. Respondent shall also obey all regulations governing the  
3           practice of respiratory care in California.

4                       Respondent shall notify the Board in writing within 14 days of any  
5           incident resulting in her arrest, or charges filed against, or a citation issued against  
6           Respondent.

7           “3.    QUARTERLY REPORTS   Respondent shall file quarterly reports  
8           of compliance under penalty of perjury, on forms to be provided to the probation  
9           monitor assigned by the Board. Omission or falsification in any manner of any  
10          information on these reports shall constitute a violation of probation and shall  
11          result in the filing of an accusation and/or a petition to revoke probation against  
12          Respondent’s respiratory care practitioner license.

13                   Quarterly report forms will be provided by the Board. Respondent is  
14          responsible for contacting the Board to obtain additional forms if needed.  
15          Quarterly reports are due for each year of probation and the entire length of  
16          probation as follows:

17                   For the period covering January 1<sup>st</sup> through March 31<sup>st</sup>, reports are to be  
18          completed and submitted between April 1<sup>st</sup> and April 7<sup>th</sup>. For the period covering  
19          April 1<sup>st</sup> through June 30<sup>th</sup>, reports are to be completed and submitted between  
20          July 1<sup>st</sup> and July 7<sup>th</sup>. For the period covering July 1<sup>st</sup> through September 30<sup>th</sup>,  
21          reports are to be completed and submitted between October 1<sup>st</sup> and October 7<sup>th</sup>.  
22          For the period covering October 1<sup>st</sup> through December 31<sup>st</sup>, reports are to be  
23          completed and submitted between January 1<sup>st</sup> and January 7<sup>th</sup>.

24                   Failure to submit complete and timely reports shall constitute a violation  
25          of probation.

26                   “....”

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1           “5.     PROBATION MONITORING COSTS   All costs incurred for  
2 probation monitoring during the entire probation shall be paid by the Respondent.  
3 The monthly cost may be adjusted as expenses are reduced or increased.  
4 Respondent’s failure to comply with all terms and conditions may also cause this  
5 amount to be increased.

6           All payments for costs are to be sent directly to the Respiratory Care Board  
7 and must be received by the date(s) specified. (Periods of tolling will not toll the  
8 probation monitoring costs incurred.)

9           If Respondent is unable to submit costs for any month, she shall be  
10 required instead to submit an explanation of why she is unable to submit the costs,  
11 and the date(s) she will be able to submit the costs including payment amount(s).  
12 Supporting documentation and evidence of why the Respondent is unable to make  
13 such payment(s) must accompany this submission.

14           Respondent understands that failure to submit costs timely is a violation of  
15 probation and submission of evidence demonstrating financial hardship does not  
16 preclude the Board from pursuing further disciplinary action. However,  
17 Respondent understands providing evidence and supporting documentation of  
18 financial hardship may delay further disciplinary action.

19           In addition to any other disciplinary action taken by the Board, an  
20 unrestricted license will not be issued at the end of the probationary period and the  
21 respiratory care practitioner license will not be renewed, until such time all  
22 probation monitoring costs have been paid.

23           The filing of bankruptcy by Respondent shall not relieve the Respondent  
24 of her responsibility to reimburse the Board for costs incurred.

25           “....”

26           “10.   COST RECOVERY   Respondent shall pay to the Board a sum not  
27 to exceed the costs of the investigation and prosecution of this case. That sum  
28 shall be \$569.00 and shall be paid in full directly to the Board, in equal quarterly

1 payments, within 12 months from the effective date of this decision. Cost  
2 recovery will not be tolled.

3 If Respondent is unable to submit costs timely, she shall be required  
4 instead to submit an explanation of why she is unable to submit these costs in part  
5 or in entirety, and the date(s) she will be able to submit the costs including  
6 payment amount(s). Supporting documentation and evidence of why the  
7 Respondent is unable to make such payment(s) must accompany this submission.

8 Respondent understands that failure to submit costs timely is a violation of  
9 probation, and submission of evidence demonstrating financial hardship does not  
10 preclude the Board from pursuing further disciplinary action. However,  
11 Respondent understands that providing evidence and supporting documentation of  
12 financial hardship may delay further disciplinary action.

13 Consideration to financial hardship will not be given should Respondent  
14 violate this term and condition, unless an unexpected AND unavoidable hardship  
15 is established from the date of this order to the date payment(s) is due.

16 The filing of bankruptcy by the Respondent shall not relieve the  
17 Respondent of her responsibility to reimburse the Board for these costs.

#### 18 COST RECOVERY

19 9. Section 3753.5, subdivision (a) of the Code states:

20 "In any order issued in resolution of a disciplinary proceeding before the board,  
21 the board or the administrative law judge may direct any practitioner or applicant found to have  
22 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the  
23 investigation and prosecution of the case."

24 10. Section 3753.7 of the Code states:

25 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall  
26 include attorney general or other prosecuting attorney fees, expert witness fees, and other  
27 administrative, filing, and service fees."

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1                   11.     Section 3753.1 of the Code states:

2                   "(a) An administrative disciplinary decision imposing terms of probation may  
3 include, among other things, a requirement that the licensee-probationer pay the monetary costs  
4 associated with monitoring the probation. "

5                   **FIRST CAUSE TO DISCIPLINE AND REVOKE PROBATION**

6                   **(Failure to Obey all Laws)**

7                   12.     At all times after the effective date of Respondent's probation, Condition 2  
8 required that respondent obey all laws.

9                   13.     Respondent's probation is subject to revocation because she failed to obey  
10 all laws. The circumstances are as follows:

11                   (a)     As part of her criminal probation in case number 06NM11923, before the  
12 Superior Court of California, County of Orange, respondent was required to enrolled in, and  
13 complete, a Batterer's Treatment Program;

14                   (b)     On or about February 27, 2007, a warrant was issued for respondent's  
15 arrest as she had failed to appear for the Domestic Violence Batterer's Treatment Program  
16 progress review and pay fees of \$555.00;

17                   (c)     Respondent appeared in Superior Court on or about March 12, 2007, and  
18 the warrant for her arrest was recalled;

19                   (d)     On or about May 14, 2008, the Superior Court of California issued an  
20 arrest warrant for respondent because failed to appear and produce a progress report from the  
21 Domestic Violence Batterers' Treatment Program;

22                   (e)     On or about June 4, 2008, respondent admitted to violating her criminal  
23 probation. The Court reinstated her probation and ordered respondent to serve 2 days in County  
24 Jail.

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1                                   **SECOND CAUSE TO DISCIPLINE AND REVOKE PROBATION**

2                                   **(Failure to Submit Quarterly Reports)**

3                           14.     At all times after the effective date of Respondent's probation, Condition 3  
4 required that respondent submit quarterly reports of compliance.

5                           15.     Respondent's probation is subject to revocation because she failed to  
6 submit her Quarterly Report of Compliance for the reporting periods of January 1 - March 31,  
7 2008, April 1 - June 30, 2008, July 1 - September 30, 2008, and October 1, 2008 - December 31,  
8 2008.

9                                   **THIRD CAUSE TO DISCIPLINE AND REVOKE PROBATION**

10                               **(Failure to Make Probation Monitoring Payments)**

11                           16.     At all times after the effective date of Respondent's probation, Condition 5  
12 required Respondent to pay for the costs of probation monitoring.

13                           17.     Respondent's probation is subject to revocation because her monthly  
14 probation monitoring payments are behind by \$1242.75.

15                               **FOURTH CAUSE TO DISCIPLINE AND REVOKE PROBATION**

16                               **(Failure to Pay Cost Recovery)**

17                           18.     At all times after the effective date of Respondent's probation, Condition  
18 10 required her to pay the costs of the investigation and prosecution.

19                           19.     Respondent's probation is subject to revocation because her cost recovery  
20 payments are behind by \$142.25.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

4 1. Revoking the probation that was granted by the Respiratory Care Board of  
5 California in Case No. R-2085 and imposing the disciplinary order that was stayed thereby  
6 revoking Respiratory Care Practitioner License No. 19312 issued to Tatia H. DePass, R.C.P.;

7 2. Revoking or suspending Respiratory Care Practitioner License No. 19312,  
8 issued to Tatia H. DePass, R.C.P.;

9 3. Ordering Tatia H. DePass, R.C.P. to pay the Respiratory Care Board the  
10 costs of the investigation and enforcement of this case, and if probation is continued or extended,  
11 the costs of probation monitoring; and,

12 4. Taking such other and further action as deemed necessary and proper.  
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14 DATED: March 24, 2009  
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17 Original signed by Colleen Whitestine for: \_\_\_\_\_  
18 STEPHANIE NUNEZ  
19 Executive Officer  
20 Respiratory Care Board of California  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant  
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